

HOUSE BILL REPORT

HB 1395

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to the uniform regulation of business and professions.

Brief Description: Modifying provisions concerning the uniform regulation of business and professions.

Sponsors: Representatives Wood, Conway and Condotta; by request of Department of Licensing.

Brief History:

Committee Activity:

Commerce & Labor: 2/7/05, 2/21/05 [DPS].

Brief Summary of Substitute Bill

- Making technical changes and other language clarifications to the regulation of business and professions programs administered by the Department of Licensing (Department), and to the uniform disciplinary procedures for business and professions regulated by the Department.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Hudgins and McCoy.

Staff: Rebekah Ward (786-7106).

Background:

The Department of Licensing (Department) regulates businesses and professions. Each business and profession has a separate set of laws regarding disciplinary actions, investigating violations of the law, and imposing sanctions for violations. Each business and profession is under either the disciplinary authority of the Director of the Department or a board or a commission charged with regulating the particular profession.

The Uniform Regulation of Business and Professions Act (URBPA) was passed in 2002, consolidating disciplinary procedures for the licensed businesses and professions regulated by the Department. In some cases, the enactment of the URBPA resulted in inconsistencies with the various business and professions statutes.

Summary of Substitute Bill:

Several language clarifications and technical changes are made in the Uniform Regulation of Business and Professions Act (URBPA) and in various professional licensing statutes.

Unprofessional Conduct

Certified Real Estate Appraisers: Negligence, incompetence, or failure or refusal without good cause to exercise reasonable care in developing appraisals and other related documents is deemed to be unprofessional conduct.

Funeral Directors: It is unlawful, rather than a violation of a specific statute, to represent oneself as a funeral director or embalmer or practice without a license. There is no longer a requirement that at least one funeral director supervise and direct the business of a funeral establishment.

Uniform Regulation of Business and Professions Act: Misrepresentations in renewing a license, as well as in obtaining or reinstating it, and engaging in unlicensed practice are instances of unprofessional conduct. Incompetence, negligence, or malpractice which causes damage to another, rather than a consumer, is unprofessional conduct.

A certified copy of a final holding of a court with competent jurisdiction is conclusive evidence of the applicant's conduct.

Director's or Disciplinary Board's Authority

Bail Bond Agents: The Director's designee, as well as the Director, is given the authority to order restitution or issue an assurance of discontinuance.

Collection Agencies: The Collection Agency Board, not the Director may adopt rules and enforce the Board's duties under this program.

Geologists: The Director no longer has the authority to enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. Additionally, it is no longer prohibited practice for a failure to comply with an assurance of discontinuance entered into with the Director.

Hearings are held before the Geology Board, not the Director or the Director's designee.

Private Investigators and Security Guards: The Director's designee, as well as the Director, is given the authority to administer these programs.

Bail Bond Recovery Agents: The Director's authority is extended to cover bail bond recovery agents.

Uniform Regulation of Business and Professions Act Revisions

Definitions: "Unlicensed practice" is defined to include representations made to a person, rather than a consumer.

License Denial: Disciplinary authority is created to issue a statement of intent to deny a license where there is an investigation and a reason to believe the minimum qualifications for licensure have not been met. In addition, the license holder or applicant may file a request for a hearing to contest the intent to deny a license. The time limits for holding a hearing on a violation apply to requests for a hearing on the intent to deny a license.

The disciplinary authority's order revoking a license must be for a specific period of time, rather than indefinitely.

Cease and Desist Orders: A disciplinary authority may issue a notice of intent to issue a cease and desist order to any person the disciplinary authority believes has engaged in or is about to engage in unprofessional conduct. Among other things, the notice must include a description of unlawful practices or activities. Temporary orders to cease and desist may be ordered if the disciplinary authority makes a written finding of fact showing irreparable harm to the public if there is a delay in issuing such an order.

Application of URBPA

The URBPA applies to conduct occurring on or after January 1, 2003, the URBPA is applicable to applications for licensure made on or after January 1, 2003.

Substitute Bill Compared to Original Bill:

The original bill made technical changes and other language clarifications to the regulation of the business and professions programs administered by the Department of Licensing (Department) and to the uniform disciplinary procedures for businesses and professions regulated by the Department. Among other changes, the original bill eliminated the requirement for one supervisory funeral director to direct the business of a funeral establishment. The substitute bill restores the current requirement for one supervisory funeral director to direct the business of a funeral establishment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The Uniform Regulation of Business and Profession Act (URBPA) which passed in 2002 brought together disciplinary standards for 25 professions, clarified disciplinary authorities for specific professions, and incorporated among other things bail bond agents, which came from a bill in the previous year. The URBPA also extends to unlicensed practice, and some actions on the part of applicants for licensure that can be considered by the

Department of Licensing (Department) in applications for professional licenses issued by the Department such as assault charges.

House bill 1395 also makes adjustments for those professions who were not part of the housekeeping bill in 2002.

Testimony Against: None.

Persons Testifying: John Swannack, Department of Licensing; Jim Irish, Appraisers' Coalition; and Shiela Shaffer, Appraisers Coalition of Washington Appraiser.

Persons Signed In To Testify But Not Testifying: None.